

The drag show bans sweeping the US are a chilling attack on free speech

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When Bill Lee donned a cheerleader uniform, fake pearls and a wig as part of high school senior year antics, he probably didn't think the goofy costume would come back to bite him. But, more than 40 years later, the now governor of [Tennessee](#) is at the forefront of efforts to ban the innocent costumes he and his friends once wore, waging a battle that strikes at the heart of our first amendment freedoms.

Since the beginning of this year, at least 32 bills have been filed in Arizona, Arkansas, Iowa, Idaho, Kansas, Kentucky, Minnesota, Missouri, Montana, North Dakota, Nebraska, Oklahoma, South Carolina, South Dakota, Tennessee, Texas and West Virginia targeting drag performances, with more on the way.

Tennessee was the first to pass its bill into law last week, barring "adult cabaret performances" on public property or in places where they might be within view of children. The bill bans, among other things, "male or female impersonators who provide entertainment that appeals to a prurient interest, or similar entertainers". Violators may face misdemeanor or even felony charges.

In Texas, at least four different bills would put venues that host drag performances in the same category as adult movie theaters and strip clubs.

Driving support for these bills is discomfort and distaste for expression that defies conventional gender norms. The growth of library Drag Queen Story Hours – programs that feature drag performers as a way to provide "[unabashedly queer role models](#)" for kids – have led some to question whether young children should be exposed to those who defy traditional gender patterns.

Participation in [Drag](#) Queen Story Hours is voluntary – libraries decide whether to program these events and families choose whether to attend them – but some critics seem to regard their very existence as deviant or dangerous. This reaction is part of a wider backlash against the increased visibility of transgender and non-binary identities. States and communities have banned books featuring transgender characters and prohibited teaching about transgender identities in school.

Though the history and cultural role of drag goes well beyond current tensions over transgender issues, this form of performance and display has now come into the crosshairs. Drag performances have been targeted with violence and are now the subject of state laws to limit or even outlaw them.

Anti-drag legislation varies from state to state, but tends to share some common provisions. Most bills define a drag performer as someone performing while using dress, makeup and mannerisms associated with a gender other than the one assigned to them at birth. A number of bills include lip-syncing within their definitions and many specify that the person must be performing for an audience.

Some bills would designate any establishment that hosts drag performances as an "adult" or sexually oriented business, often making it illegal for such businesses to be located within a certain distance of schools or residential areas.

While the details of the legislation may change from state to state, most of these bills represent a broad and dangerous chilling of Americans' right to free speech. The US supreme court has repeatedly found that clothing choices are a constitutionally protected form of expression under the first amendment.

The Tennessee law's reference to "prurience" – defined as something intended to arouse sexual interest – should limit the sweep of the law so it doesn't affect things like children's story hours. But, inevitably, concerns over the intent and enforcement of the law will cast a chill over shows, jokes or comedy bits that might be anywhere close to the line. That chilling is intentional: by targeting drag performances, lawmakers intend to intimidate transgender and non-binary performers and shows into hiding.

The breadth of the bills is staggering, and many would risk chilling expression that goes well beyond the drafters' purported goals of protecting children or limiting displays that may border on the obscene.

Productions of Shakespeare plays like *As You Like It* or *Twelfth Night* – both of which feature cross-dressing characters – could run afoul of some of these bills, as might a singer performing the musical version of *Mrs Doubtfire*. Sandy Duncan's performance as Peter Pan would be banned under several of these bills. Movies like *White Christmas*, *Tootsie*, *Some Like It Hot*, *Bridge on the River Kwai* and *South Pacific* – all of which feature comic performances by men wearing women's clothes – could be off-limits for screenings in schools or libraries.

Even Governor Bill Lee's decades-old dress-up could lead to serious legal repercussions under the law he just signed, if it were to be interpreted and enforced broadly. If students wore similar costumes today on the grounds of a public high school, and then went on to make a sexual joke in front of a small group, their behavior might be criminalized.

The legislation has even broader impacts for transgender people. Under some draft laws a string quartet with a transgender violinist might not be able to perform chamber music. A trans chef talking about their new cookbook could be restricted to venues designated as "adult businesses".

It's perfectly fair for parents to want to decide how and when their young children engage with questions of gender identity. But the drive to protect children from witnessing people whose dress defies traditional gender binaries must not become the basis for draconian restrictions impinging upon the free expression rights of children and adults alike.

Whether it's youthful pranks, beloved plays, historical costumes or adult performances, the ability to dress up and play characters unlike yourself is core to artistic expression. In the name of curbing drag, legislatures across the country are dragging down first amendment freedoms for all.